

### **III. Remarks/Arguments**

This Response is being made to the Office Action dated 03/07/2005. A request for a 3-month extension of time to respond has been filed concurrently herewith.

#### **A. Formal Requirements**

There were no formal requirements listed in the Office Action.

#### **B. Response to Rejection of Claims**

Claims 2 and 3 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Conroy (USP 6,241,633) in view of Hsu (USPN 2004/0127310). Specifically, the Office Action states that "Conroy disclosed the claimed device with the exception of the elastomer layer between the composite constructs" and that "Hsu [discloses] that it is known in the sporting good art to provide for such a layer for shock absorption." Applicant's respectfully traverse this rejection and equally respectfully requests reconsideration thereof in light of the following remarks.

Needless to say, the size, shape, use, "feel" and physics involved in a baseball bat being swung by a player to strike the round baseball in warm weather are not the same as the physics involved in a hockey stick being used to hit a slap shot with a cylindrical hockey puck on a bed of ice. Perhaps that is why no prior art in the hockey stick art has been found that discloses the claimed intermediate elastomer layer in a hockey stick. In this particular regard, it is an unwarranted and unsubstantiated leap to conclude, as the Office Action does, that Hsu shows that is it well known in all sports goods, including hockey, to provide for a shock absorption layer. If that were true, one would find, amongst the hundreds of patents on hockey sticks, at least some mention of it. The mere fact that the Office Action had to resort to a baseball bat, and then extend its reach to hockey sticks, is telling. Certainly, the applicants do not contend that a patent on their hockey stick could be asserted against a baseball bat having an intermediate shock absorption layer. Equally certainly, there is nothing in Hsu that suggests anything disclosed there would have application to the hockey stick art.

Accordingly, it is respectfully solicited that the Office Action does not adequately support the notion that there is anything in the prior art that would teach or suggest this

combination of references. Indeed, the fact that in the many, many hockey stick patents in the prior art, there is no disclosure of the claimed elastomer layer suggests just the opposite.

New claims 4 through 15 have also been added that depend from claims 1 and 2. Each of these new dependent claims present additional features of the invention that are neither disclosed nor suggested by the cited references. For example, the new claims refer to the elongation of the elastomer layer; to its placement on less than the entire periphery and longitudinal length of the inner construct. The cited Hsu reference merely discloses a baseball bat that has an inner layer that fully encircles the inner shell and extends the entire distance of the handle portion of the bat, at least. The only disclosure within Hsu as to the material used is that it made of materials with energy absorption property like butyl rubber. Accordingly, even if Hsu were properly considered, there is nothing in Hsu that would render these additional features obvious.

New claim 16 adds the additional step to claim 3 regarding the novel feature of this method in which the handle portion is inserted using a rotational movement into an open slot in the back of the blade portion, such that once inserted, the rearward portion of the handle become the rearward portion of the blade. Nothing in McKinnon (USP 4,358,113), which shows the traditional type mortise and tenon arrangement, teaches or suggests that method of construction.

In sum, all of the independent claims in the listing above are patentable, and thus are the various claims depending from them.

WHEREFORE, Applicant respectfully requests that a Notice of Allowance of all claims be issued in this case.

September 7, 2005

Respectfully submitted,

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